IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 20255 of 2004

Between:

Kattamuri Vijaya Venkata Lakshmi Narasimha Rao, S/o. K. Ahobala Bhaskara Rao, R/o. 27-43-2, Mandapati Vari Street, Governorpet,Vijayawada -520 002, Krishna District.

..... PETITIONER

AND

1 Zilla Parishad, Guntur, Rep. by its Chief Executive Officer, O/o. Zilla Parishad, Guntur.
2 Ayyappa Bhakta Jana Seva Sangham, Rep. by its Secretary Dogiparthi Satyanarayana,
Sattenapalli, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction preferably in the nature of Writ of Mandamus declaring the action of the 1st respondent in allotting Ac.1-00 of land to the 2nd respondent for construction of Ayyapaswamy Temple in D.No. 13/1 of Vaddapalli Village, Sattenapalli Taluk, Guntur District and giving a notification for the auction of remaining land in D.No. 13/1 Vaddapalli Village, Sattenapalli Taluk, Guntur District in R.C.No.3291/2004-H4 dated 20-09-2004 for issuance of lease for a period of 3 years in 4 items as arbitrary, illegal as the same was allotted in violation of the conditions specified in Gift Deed Document No. 3068 of 1946 dt. 22-10-1946 by Kattamuri Narasimham and direct the respondent to handover the property to the

petitioner which was donated by Kattamuri Narasimham in Gift Deed Doct. No. 3068 of 1946 in D.No. 13/1 of Vaddapalli Village, Sattenapalli Taluk, Guntur District by resuming the same from the 2nd respondent.

Counsel for the Petitioner:MR.K.JAYA KUMAR

Counsel for the Respondent Nos.1 and 2: MR.D.SRINIVASA RAO

The Court, at the stage of admission, made the following :

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ORDER:

Heard the learned counsel for the petitioner.

Learned counsel for the petitioner contends that since the conditions imposed in the gift deed, which was made by the petitioner's grand father, have not been complied with, the respondents cannot lease out the said property to the third parties and that the same has to revert back to the petitioner, if the property is not put to use for the purpose for which it was gifted.

In these circumstances, the proper remedy for the petitioner is to approach the competent Court of civil jurisdiction for due recovery of possession of the said land, if he feels that the conditions of the gift deed are violated. The rights of the parties, under the gift settlement deed, cannot be decided in a summary manner in the present writ petition. Further, if any irregularities are committed in leasing out the property by the respondents, the petitioner can also approach the Collector, and that the said land cannot be used for a different purpose, than the one, for which it was gifted.

The writ petition is disposed of accordingly. No order as to costs.

04-11-2004

GJ

To

1 The Chief Executive Officer, Zilla Parishad, Guntur, O/o. Zilla Parishad, Guntur.
2 The Secretary, Ayyappa Bhakta Jana Seva Sangham, Sattenapalli, Guntur District.

3 Two C.D. copies.